

**J. Thomas Cairns, Jr., SBN 75991
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Attorneys for Respondent

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY LOS ANGELES

ADRIAN RISKIN,
Petitioner,
vs.
LARCHMONT VILLAGE PROPERTY
OWNERS ASSOCIATION,
Respondent.

) **CASE NO.: BS172934**
) *[Assigned to Hon. Mary H. Strobel – Dept. 82]*
)
) **DECLARATION OF THOMAS KNEAFSEY**
) **IN OPPOSITION TO EX PARTE**
) **APPLICATION FOR ORDER TO SHOW**
) **CAUSE RE: CONTEMPT**
)
) **Date: October 15, 2019**
) **Time: 9:30 A.m.**
) **Dept.: 82**
)
) **TELEPHONIC APPEARANCE**

I, THOMAS KNEAFSEY, declare and state as follows:

1. I am now and, at all times mentioned herein, have been the President of the Larchmont Village Property Owners Association, a California Nonprofit Mutual Benefit Corporation (the "ASSOCIATION") and the Respondent herein. I make this Declaration in opposition to the Ex Parte Application of Petitioner, Adrian Riskin for an Order to Show Cause Re: Contempt. The facts stated herein are known to me personally and, if called as a witness herein, I could and would testify competently hereto.

1 2. The Association acts as the managing entity for the Larchmont Village Business
2 Improvement District (the “BID”), which includes a total of 25 commercially zoned parcels along
3 both sides of Larchmont Boulevard between 1st Street and Beverly Boulevard. This area represents
4 the core commercial district of the Village, and includes a combination of residential, retail,
5 restaurant, financial, and office use.

6 3. Between 2016 and the present time, the BID has operated on annual budgets of
7 approximately \$140,000 for the purpose of providing services that the City of Los Angeles is unable
8 or unwilling to provide including sidewalk cleaning, tree pruning, trash collection and trash bin
9 cleaning, and related administration operations. In addition, the BID allocates a small portion of its
budget to holiday decorations in Larchmont Village.

10 4. The BID does not now have – nor has it ever had any employees, either full time or part time.
11 It uses outside contractors for all of the services described above. More particularly, the BID has no
12 administrative staff and no information technology department or consultants, and has no budget for
13 such staff or consultants.

14 5. From the inception of the BID on August 5, 1997 until the present time, I have served as a
15 volunteer in the capacity of Executive Director of the BID. Since on or about October, 2016, the
16 BID has contracted for management services with Rebecca Hutchison and Heather Duffy Boylston
17 of H+R, which since that time has managed all of the day to day activities of the BID including
18 communications with the City of Los Angeles and its agencies.

19 6. Since in or about September, 2016, the BID has received many public records requests from
20 Adrian Riskin, the Petitioner herein. Both I and the BID’s management firm have devoted
21 significant time in searching our records and in responding to those requests. I have personally
22 spent over 10 hours of my time in searching for records responsive to those requests.

23 7. Although the BID has produced many hundreds of documents, including emails, contracts,
24 and board minutes, I was informed in early September, 2018 that Mr. Riskin and his counsel
25 considered our responses incomplete. Both I and the BID’s management company went back and
26 did additional searches of our records and, on or about September 15, 2018, caused approximately
27 10 additional records that we thought may be responsive to be sent to Mr. Riskin’s attorney,
28 Abenicio Cisneros. A true and correct copy of Mr. Cisneros’ email acknowledging receipt of those
additional records is attached hereto as Exhibit “1”.

1 8. On October 2, 2018, I received an email advising that Mr. Cisneros still believed there may
2 be additional records that had not been produced. Attached to that email was a 3 page protocol
3 describing the additional searches that Mr. Cisneros wanted us to perform. A true and correct copy
4 of that email and attached search protocol is attached hereto as Exhibit "2".

5 9. In October, 2018, I performed each of the searches described in that search protocol. I did not
6 locate any other responsive records that had not already been produced.

7 10. In or about June, 2019, in an effort to comply with the court's order to conduct further
8 searches, I again performed searches for records in the manner described in the search protocol,
9 with particular emphasis on those numbered 1.1, 1.2, 2.1, 2.2, and 3.1. I have not located any
10 additional records responsive to Mr. Riskin's requests.

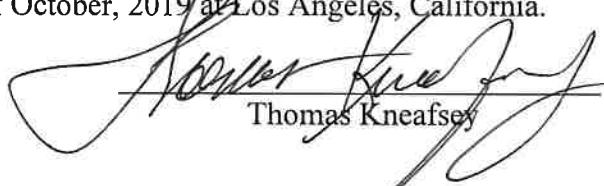
11 11. To my knowledge, the BID has never had occasion to communicate with the Los
12 Angeles Police Department, in writing or otherwise. Thus, I am not surprised that we have been
13 unable to locate any records concerning such communications.

14 12. To my knowledge, the BID has had very little reason to communicate with the City of
15 Los Angeles and those communications have only dealt with submission of the BID's Annual Plans,
16 financial statements and other matters that require City approval. Thus, I am not surprised that we
17 have been unable to locate any additional records concerning such communications.

18 13. I am aware of blog posts made by Mr. Riskin on his website including one dated June
19 24, 2016 titled "How To Destroy a Business Improvement District in California: A Theory", in
20 which Mr. Riskin suggests use of the California Public Records Act for that purpose. A true and
21 correct copy of Mr. Riskin's June 24, 2016 article is attached hereto as Exhibit "3".

22 14. It is my belief that Mr. Riskin's multiple CPRA requests and litigation have been for
23 the purpose of harassing BIDs throughout the State and not for any legitimate purpose of public
24 transparency.

25 I declare under penalty of perjury that the foregoing is true and correct and that this
26 Declaration is executed this 11 day of October, 2019 at Los Angeles, California.
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Thomas Kneafsey

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EXHIBIT “1”

From: Abenicio Cisneros <acisneros@capublicrecordslaw.com>
Sent: Monday, September 17, 2018 5:11 AM
To: Tom Cairns <jtcairns@ca.rr.com>
Subject: Re: FW: Riskin v. Larchmont Village BID CPRA Petition

Tom,

Thank you for the disclosure you provided. Attached find a letter regarding the disclosure which outlines outstanding portions of the request. Please let me know if you have any questions or would like to discuss.

Best,
Abenicio

Best,
Abenicio Cisneros
CApublicrecordslaw.com
acisneros@CApublicrecordslaw.com
(707) 653-0438

CONFIDENTIALITY NOTICE:

The information contained in this communication may contain confidential and/or privileged information. It is intended solely for use by the recipient and others authorized to receive it. If you are not an intended recipient you must not use, copy, disclose or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation

On Sat, Sep 15, 2018 at 2:25 AM, <jtcairns@ca.rr.com> wrote:

Abenicio,

Per my prior emails, attached are the remainder of the records.

Tom

From: jtcairns@ca.rr.com <jtcairns@ca.rr.com>
Sent: Friday, September 14, 2018 5:19 PM
To: 'Abenicio Cisneros' <acisneros@capublicrecordslaw.com>
Cc: 'jtcairns@ca.rr.com' <jtcairns@ca.rr.com>
Subject: RE: Riskin v. Larchmont Village BID CPRA Petition

Abenicio,

As promised, attached are all of the records that I believe are responsive to Mr. Riskin's requests. Most if not all of these were previously provided to Colleen Flynn, Mr. Riskin's former attorney.

Once you have had an opportunity to review these, please give me a call so we can further discuss resolution of this matter.

Best Regards,

Tom Cairns

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EXHIBIT “2”

jtcairns@ca.rr.com

From: jtcairns@ca.rr.com
Sent: Tuesday, October 2, 2018 4:54 PM
To: 'Thomas Kneafsey'; 'Heather Duffy Boylston'
Cc: 'Rebecca Hutchinson'; jtcairns@ca.rr.com
Subject: RE: Confidential
Attachments: List - Due diligence for Record Production - Riskin.pdf

Tom, Heather and Rebecca,

I'm working with Abenicio Cisneros, Riskin's attorney, in trying to get the CPRA lawsuit settled. We're making some progress.

Though he objected that our prior productions were, in some respects, over-inclusive, he is still not convinced that we have done a diligent inspection and produced everything requested.

I have agreed that we will make a further diligent search to see if we can find anything else.

Attached is a 3 page summary of what we have agreed to make a further search for.

Without limiting the attached summary, he is particularly looking for:

- 1) an email between the BID and the City Clerk obtained via PRA to City Clerk and attached to the Petition as Exhibits E;
- 2) the contract for the consultant used in the most recent renewal process; and
- 3) materials distributed at the May 2, 2017 BID Board meeting.

Please make a further check of your records to see if you can find anything shown on the attached. Also, please forward this email to each of the board members, asking them to do the same.

If you can all get back to me by early next week, that would be good.

Of course, if you have questions or want to discuss, please give me a call.

Tom Cairns

Request 1, Item 1

This request calls for emails between anyone at Larchmont Village BID, either staff or Board, and anyone at lacity.org and/or lapd.online during the period of January 1, 2016, through March 31, 2017. "Between" includes emails sent to, from, cc, or bcc. The request calls for emails in native formats and is inclusive of attachments.

Thus, in order to resolve this request, please do the following:

1. Ask all BID staff and Board members to conduct a search of emails responsive to Request #1, Item 1 (i.e. emails sent to, from, cc, or bcc including either lacity.org or lapd.online for the period of January 1, 2016, and March 31, 2017) and please provide all responsive records. If any responsive records are withheld, please provide an index describing the record and citing under what statutory authority the record is being withheld.
2. Please provide a list containing the dates when each staff and/or Board member was asked to conduct the search and when each staff and/or Board member indicates that the search was completed.

Request 1, Item 2

This request calls for the BID's Board Meeting minutes from 10/13/14, 10/15/15, and 10/12/16. You previously informed attorney Colleen Flynn that these minutes could not be located. This claim, however, is belied by an email you included in the recent disclosure. Specifically, the December 5, 2016, email from Erin Dolan to Rita Moreno makes reference to the October 2016 Board Meeting minutes being attached. An attachment to that email titled "1455_001.pdf" was not included with the email disclosure. It is likely that the "1455_001.pdf" file contains the October 2016 minutes.

Thus, in order to resolve this, please do the following:

1. Conduct another search for the Board Meeting minutes from 10/13/14, 10/15/15, and 10/12/16. This search should include a search of emails sent to the City to determine whether the minutes exist as attachments submitted to the City.
2. Locate and provide the attachment to the December 5, 2016 email from Erin Dolan to Rita Moreno.
3. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

Request 1, Item 3

This request calls for the contract with the BID consultant from the most recent renewal process. That record has not been provided. However, the BID plan from 2013 indicates that it was prepared with assistance from Edward Henning & Associates.

Thus, in order to resolve this, please do the following:

1. Provide the contract between the BID and Edward Henning & Associates for creating the 2013 plan.
2. Conduct a search for any contract used by any other consultant in the BID's most recent renewal process and provide any responsive records.
3. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

Request 2, Item 1

This request calls for agendas for all BID Board Meetings from January 2014 through the present (as submitted in April 2017). The most recent disclosure contained responsive records in the form of meeting agendas for the May 2014 and May 2016 Board meetings. Thank you for providing those records. However, many months of meetings are still outstanding.

Thus, in order to resolve this, please do the following:

1. Conduct a search for Board Meetings Agendas from January 2014 through April 2017, including a search of emails contemporaneous with the meetings to determine whether the agendas exist as attachments to emails sent, and provide all responsive records.
2. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

Request 2, Item 2

This request calls for all emails between anyone at the BID, staff and Board member, related to the operation of the BID from October 2016. The emails provided here do not appear to fulfill this request.

Thus, in order to resolve this, please do the following:

1. Instruct each individual who was a BID staff or Board member in 2016 to conduct a search for emails from October 2016 related to the operations of the BID and provide all responsive records. If any responsive records are withheld, please provide an index describing the record and citing under what statutory authority the record was withheld.

2. Please provide a list containing the dates when each staff and/or Board member was asked to conduct the search and when each staff and/or Board member indicates that the search was completed.

/

Request 3

This request calls for electronic copies of all materials distributed at the May 2017 Board Meeting. For reference, a Board meeting agenda for the May 2017 meeting was attached to the Petition as Exhibit L.

Thus, in order to resolve this request, please do the following:

1. Conduct a search for materials related to each and every item on the May 2017 Board Meeting Agenda and provide all responsive records. As these materials were distributed at a public meeting, there should be no withholdings subject to exemption.
2. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

When the BID provides these records, please make it clear which request each record is being provided in response to.

If the BID complies with the above instructions, the parties will be in a much better position to reach settlement.

Please note that due to the untailored nature of the initial disclosure, additional attorney hours were incurred in evaluating the disclosure and drafting this instructional letter. Adherence to the above instructions will ensure that no additional hours will be required on related tasks, such as hours spent drafting discovery to establish the scope and nature of the BID's search for records should the BID not provide the above requested materials.

It is my hope that the records portion of this lawsuit can be resolved promptly, leaving only the monetary portion to be resolved. Please let me know if you have any questions and thank you for your assistance with this matter.

Best,
Abenicio Cisneros
Attorney for Adrian Riskin

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EXHIBIT “3”

Michael Kohlhaas dot org

FEATURED, HYPOCRISY, MISCELLANEOUS

HOW TO DESTROY A BUSINESS IMPROVEMENT DISTRICT IN CALIFORNIA: A THEORY

JUNE 14, 2016 | MIKE | 3 COMMENTS

DISCLAIMER: I'm not a lawyer. But I'm friends with some lawyers. More than zero of them did not laugh out loud at the idea you're about to read. That's all I got.

Business improvement



districts in California are made possible by the

Property & Business

Improvement District Law of 1994.¹ It's worth reading, or at least skimming through, because there's gold in them thar hills! For instance, consider Section 36670(a)(1), which states:

36670.(a) Any district established or extended pursuant to the provisions of this part ... may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

Do you see the potential in that statement? The fact that it's a tool for laying waste the BIDs of Los Angeles like so many Philistines? It's a little hard to understand statutes, but here's a clue: when they say "shall" they mean "must," not "can." Now turn the page to find out why this little statute, if not more powerful than Doug Henning and his sparkly rainbow suspenders as pictured above, is possibly as effective a BID repellent but much, much more emotionally satisfying than mere poofsly-woofslly magical annihilation.

This would be an effective, emotionally satisfying, and poetically just way to get rid of business improvement districts, but I'm hoping for something a little more environmentally friendly.

My colleagues and I have pointed out before that BIDs in Los Angeles are white supremacists. They're heirs of a long tradition of white supremacy in Los Angeles. They maintain and reproduce a century long tradition of white supremacism, and, as a bunch of privileged white supremacists, they cannot help but break the law. They violate the Brown Act on a regular basis.² They violate the California Public Records Act on a regular basis.³ They commit years-long serial civil rights violations. They violate the ethics laws of the City of Los Angeles.⁴ They couldn't follow the law if they tried, because privilege has burnt out their moral senses, assuming they had moral senses to begin with.

The method is essentially the broken windows theory for white collar BID crime. Pay attention to the BIDs. They will break the law. Turn them in for every possible law they break just like they do to homeless people who they're targeting for forced relocation. We're targeting the BIDs for forced relocation.

Eventually some agency somewhere will see through their magic-zillionaire-pixie-dust⁵ and make an official determination that they've broken the law. This will make it hard for the City Council not to find that there has been "...*a violation of law in connection with the management of the district.*"⁶ Then they will have to "...*notice a hearing on disestablishment.*" Repeat if necessary.

BIDs are elected by means of a weirdly distorted weight-by-property-value system that violates majority rule and leaves an awful lot of property owners feeling disaffected with the BID.⁷ The members of the City Council, on the other hand, are elected by majority rule. Their political instincts will force them to listen to the majority, not the zillionaire few. Disestablishment of the BID, while not certain, is at least possible.⁸ Even if this doesn't get rid of the BID, repeated disestablishment hearings will put pressure on everyone. It might actually work. Let's find out!

Image of Doug Henning poofing BIDs out of existence is licensed for noncommercial reuse according to the Google, and I got it [from here](#).

1. This is oversimplifying. There's also a BID Act of 1965 and another of 1989. They're probably relevant somehow, but the details are overwhelming. The 1965 one is in the [California Streets and Highways Code](#) Section 36000 et seq. and the 1989 one is at Section 36500 et seq. Good luck sorting through it all.
↳
2. Here I'm thinking of the [Downtown Industrial District BID](#), run by the organized criminal conspiracy known as the Central City East Association (and to some extent the South Los Angeles Industrial Tract BID, which doesn't have a website). I haven't had time to write on these egregious and habitual violations yet, but I will. I did have time to turn the SLAIT BID in to the LA County

DA for **Brown Act** violations, and if they're found guilty, they may be the first test of the theory I'm introducing here. Stay tuned. ↵

3. Here I'm thinking of every single BID of whom I have ever made a CPRA request. The only one so far that comes close to dealing with me on a pure good-faith basis is the **Fashion District BID**, to whom I was **recently moved to award the Excellence in BID Transparency Prize**. For a while there it looked as if the **South Park BID** was going to stay on the right side of the law, but recently they've sold their soul to the Devil like all the rest. ↵
4. Here I'm looking mostly at **the HPOA**, and **the CHC**, **Kerry Morrison**, **Lisa Schechter** (of **the Media District BID**), **Carol Schatz** and the despicable **Downtown Center BID**, and possibly the Fashion District BID and its former director Kent Smith. I haven't written on most of this because my complaints are mostly still pending at the **City Ethics Commission**, but you may hear plenty about it soon enough. ↵
5. This is that ephemeral yet hyperpotent substance that makes zillionaire criminals look beautiful and admirable and poor criminals look like outcasts and fiends. This is the stuff that got that Stanford boy rapist a three month sentence. ↵
6. This is a weak spot in the system, that the Council has to find that there's been a violation. If people were to just go to the Council and say "look! They broke the law!!" such a finding would clearly be discretionary. On the other hand, if a court or a

law enforcement agency found a violation, it seems as if the Council's hands would be tied. We can hope so, anyway. ↵

7. This is another topic for the future. A BID can be established or renewed even if a majority of the property owners vote against it or don't vote. It's really warped and has been the subject of serious but ultimately (so far) unsuccessful legal challenges in other states. ↵

8. And this possibility means that BIDs are risking more than ordinary government agencies do when they violate CPRA with such abandon. If, e.g., Council District 14 ignores every possible part of CPRA (I'm looking at you, Rick Coca), the only risk they face is that someone will sue them and they'll have to pay fees. But they're loaded and there are no consequences beyond paying out some money. BIDs, on the other hand, would seem to be putting their very existence at risk. They seem so eager to do this, I wonder if this theory has occurred to their lawyers. You might argue, and the argument would seem to have merit, that the fact that their lawyers aren't worried about this means my theory is bogus. It might be. But their lawyers might just be stupid. I have concrete evidence that at least one of them is stupid, anyway. We shall see what we shall see, I suppose. ↵



-  DOUG HENNING  DOWNTOWN CENTER BID
-  DOWNTOWN INDUSTRIAL DISTRICT BID  FASHION DISTRICT BID
-  HOLLYWOOD MEDIA DISTRICT BID  JUDGES 15:16  KENT SMITH
-  LISA SCHECHTER  LOS ANGELES ETHICS COMMISSION  PHILISTINES
-  PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994  RICK COCA
-  SOUTH LOS ANGELES INDUSTRIAL TRACT BID  SOUTH PARK BID
-  STREETS AND HIGHWAYS CODE 36670

3 THOUGHTS ON “HOW TO DESTROY A BUSINESS IMPROVEMENT DISTRICT IN CALIFORNIA: A THEORY”



Jimbob Hopesprings

JUNE 15, 2016 AT 5:31 PM

It's like you've discovered the thermal exhaust port on the death star



Darin Wright

JULY 20, 2019 AT 4:43 AM

Hello, would love an update. We are dealing with BID development in Chattanooga. I am in opposition, not getting anywhere and City Council is voting on it the 23rd through the 30th of July 2019.



★ Mike

JULY 20, 2019 AT 7:17 AM

In general I would recommend reading TN state law authorizing BIDs really carefully. It can be effective to try to force BIDs and the cities which create them to follow the laws and rules as strictly as possible. In California at least these are widely violated just because until the last few years very few people have been paying attention. I just don't think anything I know about can help you much, though. The laws are so, so state-specific. Good luck in your battle, though! And please keep us updated.

1 **PROOF OF SERVICE**

2

3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 At the time of service, I was over 18 years of age and not a party to this action. I am employed
5 in the County of Los Angeles, State of California. My business address is 200 N. Larchmont Blvd., Los
6 Angeles, CA 90004.

7 On October 11, 2019, I served true copies of the following document(s) described as
8 **DECLARATION OF THOMAS KNEAFSEY IN OPPOSITION TO EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE RE: CONTEMPT** on the interested parties in this action as
9 follows:

10 Abenicio Cisneros, Esq.
11 2443 Fillmore Street
12 San Francisco, CA 94115

13 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons
14 at the addresses listed in the Service List and placed the envelope for collection and mailing, following
15 our ordinary business practices. I am readily familiar with my firm's practice for collecting and
16 processing correspondence for mailing. On the same day that the correspondence is placed for
17 collection and mailing, it is deposited in the ordinary course of business with the United States Postal
18 Service, in a sealed envelope with postage fully prepaid.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and correct.

21 Executed on October 11, 2019, at Los Angeles, California.

22 _____
23 J. Thomas Cairns, Jr.
24